

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

WILLIAM R. PAWSON,

Debtor.

Docket No. 05-18439 (mg)
New York, New York
January 22, 2009

TRANSCRIPT OF CHAPTER 13 HEARING RE:

1) ADJ HRG DOC. #24; THE COURT SCHEDULED THIS STATUS
CONFERENCE DIRECTING THE ATTORNEYS FOR CHASE AND THE
UNITED STATES TRUSTEE TO PROVIDE THE COURT WITH A STATUS
REPORT ON THE EFFORTS TO RESOLVE THE REMAINING ISSUES
SURROUNDING THE SETTLEMENT AGREEMENT.

2) HRG RE: DOC. #24; TRANSCRIPT OF THE HEARING HELD ON
AUGUST 13, 2008 AT 10:00 A.M. IN RE MOTION TO APPROVE
SETTLEMENT AGREEMENT.

3) ADJ HRG RE DOC. #13; DEBTOR'S RESPONSE AND CROSS-MOTION
TO THE MOTION FOR RELIEF FROM THE AUTOMATIC STATE FILED ON
BEHALF OF JP MORGAN CHASE BANK, N.A.
BEFORE THE HONORABLE MARTIN GLEN
UNITED STATES BANKRUPTCY JUDGE

A P P E A R A N C E S :

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1 THE COURT: William Robert Pawson, Number 05-18439.
2 Counsel, please make your appearances.

3 MS. NAKANO: Serene Nakano and Linda Riffkin for the
4 U.S. Trustee's Office. Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 MR. SHAEV: David B. Shaev on behalf of the Debtor,
7 Your Honor. Good afternoon.

8 THE COURT: Good afternoon.

9 MS. KAVA: The law office of Jeffrey Sapir by Jody
10 Kava for the Chapter 13 Trustee.

11 THE COURT: Mr. Lesniak?

12 MR. LESNIAK: Good afternoon, Your Honor, Edward
13 Lesniak for Chase. And I thank you again for allowing me to
14 appear by phone.

15 THE COURT: Certainly. Ms. Nakano?

16 MS. NAKANO: Thank you, Your Honor. Serene Nakano for
17 the U.S. Trustee's Office. Your Honor, Chase has sent us a
18 letter documenting the procedures that it intends to follow in
19 Southern District of New York cases with regard to lift-stay
20 motions. And I'd be happy to hand up a copy of the letter to
21 the Court.

22 THE COURT: All right. Thank you very much. Just
23 give me a couple of minutes to read it.

24 (Whereupon, the Judge, reads the letter at this time.)

25 MS. KAVA: Is that the January 9 Letter?

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1 THE COURT: Yes, it is.

2 MS. KAVA: Thank you.

3 THE COURT: All right, the Court has reviewed the
4 letter dated January 9, 2009, Mr. Lesniak to Ms. Nakano. Go
5 ahead, Ms. Nakano.

6 MS. NAKANO: Thank you, Your Honor. Your Honor, we
7 hope that these procedures, as outlined in this letter, together
8 with the Court's recently promulgated loss mitigation program
9 will go a long way towards obviating the kinds of problems we
10 saw in this case and in the Schusler (phonetic) case.

11 Obviously we were disappointed that Chase declined to
12 enter into a stipulation with us. As we had indicated at the
13 last conference we had hoped that Chase would enter into such a
14 stipulation so there would be some enforcement mechanism.
15 Nevertheless, we will continue to monitor lift-stay motions,
16 especially those with Chase, very closely in this district.

17 We had asked Chase if they would object to the filing
18 of this letter on the Court's docket and Chase indicated that
19 they would object. But we believe that it's important in the
20 interest of transparency and bankruptcy cases that the letter be
21 filed. Thank you, Your Honor.

22 THE COURT: All right. Mr. Shaev?

23 MR. SHAEV: I don't really have any additional
24 comments on that, Your Honor.

25 THE COURT: Ms. Kava?

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1 MR. KAVA: No, Your Honor.

2 THE COURT: Mr. Lesniak?

3 MR. LESNIAK: Your Honor, the only point I would
4 address with respect to Ms. Nakano's request that the letter be
5 placed of record is simply that in the initial hearing back in
6 August 13, the Court had indicated that it was not necessary
7 with the Court to go into details about the discussions with the
8 U.S. Trustee, and that the Court just needed to know whether
9 some kind of agreement was reached. I believe we have now
10 reached that agreement.

11 Now, if Your Honor reconsiders this and says that we
12 need to file this, of course, we're going to file it. We fully
13 expect in addition that in the event that the Trustee in its
14 monitoring efforts finds it necessary to come before this Court
15 again, that the procedures set forth in this letter would at
16 that time be made of record in connection with any motion or
17 action that the Trustee might take.

18 Other than that I think in my view Chase has now done
19 what the Court has asked and addressed the concerns that the
20 Court had, and as far as we're concerned the matter should be
21 concluded.

22 THE COURT: All right. With respect to whether the
23 letter should be filed, having reviewed the letter, which is
24 certainly written in re William Robert Pawson with this case
25 number, the Court directs the letter be filed on ECF.

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1 I did not want to spread on the record the back and
2 forth between the Office of the U.S. Trustee and counsel for
3 Chase, which I considered really at those earlier stages to be
4 effectively in the negotiation stage. I take this letter, which
5 I've now read and I'm going to mark as Court Exhibit 1 as
6 representations that Chase is making to the Office of the U.S.
7 Trustee with respect to Chase Home Finance, LLC's handling of
8 mortgage delinquencies and procedures for filing of motions for
9 relief from the automatic stay. So, I will direct that the
10 January 9 letter be filed on ECF in the Pawson case.

11 (Court Exhibit 1, 1/9/09 Letter from Chase to U.S.
12 Trustee, Admitted.)

13 THE COURT: Let me say that having reviewed the
14 letter, assuming the procedure is outlined in the letter
15 followed, I consider them substantially addressing the concerns
16 that the Court has raised in the Pawson case and in some other
17 cases as well. And I think reflects voluntarily, on the part of
18 Chase Home Finance, positive steps to avoid lift-stay motions
19 that are improvidently filed. So, I'm pleased to see the steps
20 that Chase has outlined and represented to the Office of the
21 U.S. Trustee that it will take.

22 I recognize that on page 2 of the letter, the last
23 paragraph, Chase indicates, "Chase has implemented or will
24 implement these procedures voluntarily in order to address
25 concerns raised by the Court. However, these procedures are not

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1 required explicitly or implicitly by any provisions of the
2 United States Bankruptcy Code, and Chase reserves the right to
3 modify these procedures as it deems appropriate or necessary."

4 Certainly, no action the Court is taking today makes
5 them mandatory, but the Court will also be mindful if the
6 procedures are changed and any issues arise in the future. I do
7 think that these -- that isn't to say, Mr. Lesniak, that Chase
8 can't or shouldn't change it's procedures as it believes
9 appropriate. The concerns are to make sure that any lift-stay
10 motions that are filed are appropriately filed. And I think the
11 steps that you outline in here ought to go a long way to
12 assuring that. So, I'm pleased to see the steps that Chase has
13 voluntarily elected to apply in this district, and the
14 representations to that affect that it's made to the U.S.
15 Trustee's Office. But I will direct that the letter be filed in
16 the Pawson case.

17 MR. LESNIAK: Understood, and thank you, Your Honor.

18 THE COURT: Okay. I just want to reiterate generally
19 I think that this has gone on for some time really while
20 discussions have continued between the Office of the U.S.
21 Trustee and Mr. Lesniak on behalf of Chase Home Finance. The
22 Court believes the time has been well spent and that certainly
23 if these procedures are followed -- certainly things can go awry
24 from time to time in cases, but this ought to go a long way to
25 assuring that that doesn't happen again in the future. So, I'm

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1 pleased with the outcome. The Court intends to take no further
2 action with respect to the sanctions' issues in the Pawson case.

3 I think that Mr. Shaev, who I previously commended for
4 his efforts in this case, has certainly obtained substantial
5 relief on behalf of his client already. So, from the Court's
6 standpoint, this matter is closed. Anybody else have anything
7 they want to add?

8 (No response.)

9 THE COURT: Mr. Teitelbaum, do you want to make any --
10 you're here on the other case or your making --

11 MR. TEITELBAUM: Your Honor, Jay Teitelbaum,
12 Teitelbaum & Baskin. I'm here on Breton and I apologize for
13 being few minutes late.

14 THE COURT: No, that's okay.

15 MR. TEITELBAUM: The subways fouled up.

16 THE COURT: Yeah, and I saw you come in and because
17 this letter makes references to Chase transitioning the
18 consultants' role to your firm that's why I just thought you'd
19 want to make an appearance on the record. All right, the Pawson
20 case is concluded. Thank you very much.

21 MS. NAKANO: Thank you, Your Honor.

22 MS. KAVA: Thank you.

23 MR. LESNIAK: Thank you, Your Honor.

24 THE COURT: Thank you, Mr. Lesniak.

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CERTIFICATION

I, Rochelle Grant, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Dated: December 18, 2009

A handwritten signature in cursive script, reading "Rochelle V. Grant", written in black ink. The signature is positioned above a horizontal line.

Signature of Approved Transcriber